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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,897	07/31/2003	John L. Waddell JR.	WADDELL 1	9607
1444 7590 11/30/2010 Browdy and Neimark, PLLC 1625 K Street, N.W. Suite 1100 Washington, DC 20006				
EXAMINER				
JOHNSON, STEPHEN				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
11/30/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/630,897

Applicant(s)

WADDELL ET AL.

Examiner

Stephen M. Johnson

Art Unit

3641

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 14, 17-19 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 14, 17-19 and 21-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. This Office action is in response to applicant's amendments and arguments as filed on 10/08/2010. Claims 13-14, 17-19, and 21-29 remain active in this application and an action on these claims follows. Claims 1-12, 15-16, and 20 have been cancelled.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bainbridge et al. (6,453,477) in view of Takahashi (5,910,540).

Bainbridge et al. (477) disclose a shock-attenuating assembly comprising:

- a) first and second plastic material confinement layers; 20, 30, 32, col. 4, line 57 to col. 5, line 3
- b) water impermeable; col. 4, line 57 to col. 5, line 3
- c) a plurality of pockets; 20, 30, 32 (see figs. 13, 25)
- c') stitching surrounding the pockets; 40, 62; col. 8, lines 37-43
- d) a shock wave attenuating material having the flow 22 properties of a liquid; and
- e) fireproofing, heat insulating, or intumescent material. 22; col. 10, lines 14-20

Bainbridge et al. (477) apply as recited above. However, undisclosed is a plastic material layer that is a polyamide resin. Takahashi (540) teaches a plastic material that is a polyamide resin (col. 10, lines 25-40). Applicant is substituting a particular type of nylon material for another as explicitly encouraged by the primary reference (see col. 4, line 57

to col. 5, line 10) in an analogous art setting with expected or predictable results (see KSR Int'l Co. v. Teleflex, Inc., 550 U.S. 398, 406 (2007)). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Takahashi to the Bainbridge et al. shock attenuating assembly and have a shock attenuating assembly with a particular type of plastic material.

4. Claims 13-14, 17-19, 21, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bainbridge et al. (6,453,477) in view of Takahashi (5,910,540) as applied to claims 22 and 29 above, and further in view of Gettle et al. (5,394,786).

Bainbridge et al. (477) and Takahashi apply as recited above. However, undisclosed is a shock attenuating filler material that is perlite. Gettle et al. (786) teach a shock attenuating filler material that is perlite (col. 16, lines 26-33). Applicant is substituting one type of shock attenuating filler material for another in an analogous art setting with expected or predictable results (see KSR Int'l Co. v. Teleflex, Inc., 550 U.S. 398, 406 (2007)). It would have been obvious to a person of ordinary skill in this art at the time of the invention apply the teachings of Gettle et al. to the shock attenuating assembly of Bainbridge et al. in view of Takahashi and have a shock attenuating assembly with a different type of shock attenuating filler material.

5. Applicant's arguments with respect to claims 13-14 and 17-19, and 21-29 have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/
Primary Examiner, Art Unit 3641

SMJ
November 29, 2010